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13 People of the State of California

14  
15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF SANTA CLARA  
17

18 THE PEOPLE OF THE STATE OF CALIFORNIA,  
19  
20 Plaintiff,

21 v.

22 TUNG TAI GROUP, INC.,  
23 JOSEPH CHEN, (10/20/1940),  
24 JOHN CHEN, (08/13/1972),  
25 JASON HUANG, (10/28/1944),

26 Defendants.

Case No. **C 1085634**

**FELONY PLEA AGREEMENT**

Date: July 9, 2012  
Time: 11:00 a.m.  
Location: Dept. 30

27 On June 26, 2012, Defendants Tung Tai Group, Inc., Joseph Chen, John Chen,  
28 and Jason Huang appeared before the Honorable Philip H. Pennypacker in Department 30 of the  
Santa Clara County Superior Court to proceed with the Preliminary Hearing on the charges filed  
by the People of the State of California in this matter. The parties negotiated the following terms  
and conditions constituting a Felony Plea Agreement, with felony pleas to be entered by  
Defendants and terms and conditions to be imposed by the Court as set forth below:

1 A. DEFENDANT 1 – TUNG TAI GROUP, INC.

2 • Defendant Tung Tai Group, Inc. ("Tung Tai") shall plead nolo contendere (no  
3 contest) to the following two Felony charges:

4 (1) Count 15 in the Felony Complaint filed in this matter, as amended as follows –  
5 “On or about August 25, 2009, in the County of Santa Clara, the crime of UNLAWFUL  
6 STORAGE OF HAZARDOUS WASTE, in violation of Health and Safety Code section  
7 25189.5, subdivision (d), a Felony, was committed by TUNG TAI GROUP, INC., who did  
8 knowingly store hazardous waste, including but not limited to electronic wastes or such residual  
9 wastes, at a facility or point not authorized for such storage”;

10 (2) Count 16 in the Felony Complaint filed in this matter, as amended as follows –  
11 “On or about August 26, 2009, in the County of Santa Clara, the crime of UNLAWFUL  
12 STORAGE OF HAZARDOUS WASTE, in violation of Health and Safety Code section  
13 25189.5, subdivision (d), a Felony, was committed by TUNG TAI GROUP, INC., who did  
14 knowingly store hazardous waste, including but not limited to electronic wastes or such residual  
15 wastes, at a facility or point not authorized for such storage”.

16 • Within 15 days after the entry of Tung Tai's Felony plea, Tung Tai shall pay a  
17 total fine of \$75,000, including the standard penalties and assessments levied for court and  
18 county costs, to the Santa Clara County Superior Court. The base fines portion of this total fine  
19 shall be apportioned pursuant to Health and Safety Code section 25192(a). The payment of this  
20 total fine shall be jointly and severally imposed upon defendants John Chen and Jason Huang.

21 • Within 15 days after the entry of Tung Tai's Felony plea, Tung Tai shall pay to  
22 the Office of the Attorney General \$50,000. This payment is restitution toward fees and costs  
23 incurred by the Office of the Attorney General in this matter. The payment of this restitution  
24 amount shall be jointly and severally imposed upon defendants John Chen and Jason Huang.

25 • At the conclusion of the entry of Tung Tai's Felony plea, all other charges against  
26 Tung Tai contained in the Felony Complaint filed on August 19, 2010, shall be dismissed.

27 • Tung Tai's sentencing shall be continued to a date set for 24 months from the time  
28 of the entry of Tung Tai's Felony plea.

1           •       On the date of sentencing, Tung Tai shall be permitted to withdraw its Felony  
2 plea to Count 15 and its Felony plea to Count 16, provided that Tung Tai has complied with all  
3 of the Interim Terms, set forth below.

4           •       At a date 12 months after the entry of the Felony plea, and again 30 days before  
5 the date of sentencing, Tung Tai shall file and serve a status report summarizing its activities  
6 relating to the Interim Terms and stating whether Tung Tai is in compliance with the Interim  
7 Terms. These status reports shall be signed under penalty of perjury by the President or Vice  
8 President of Tung Tai.

9           •       15 days before the date set for sentencing, the People shall file a status report with  
10 the Court. Tung Tai may file any objection to the People's status report 7 days before the date  
11 set for sentencing.

12          •       Provided that Tung Tai has complied with the Interim Terms, on the date of  
13 sentencing, and prior to imposition of judgment and sentence, the People shall request that the  
14 remaining charges against Tung Tai be dismissed in the interest of justice, pursuant to Penal  
15 Code section 1385. On the People's request, provided that the Court agrees that Tung Tai has  
16 complied with the Interim Terms, the parties anticipate that this Court will dismiss Count 15 and  
17 Count 16 prior to the imposition of judgment and sentence.

18          •       In the event that Tung Tai has not complied with the Interim Terms as determined  
19 by the Court, Tung Tai shall not be permitted to withdraw its Felony pleas and shall be sentenced  
20 on Count 15 and Count 16 by the Court.

21          •       Interim Terms

22          (1)     Tung Tai shall:

23           a.     Commit no intentional violations of Chapter 6.5, Division 20, of the California  
24 Health and Safety Code, and its implementing regulations, governing the control of hazardous  
25 waste, including electronic waste or any related residual;

26           b.     Withdraw as an Approved Recycler, Approved Collector, or other designation  
27 pursuant to the Electronic Waste Recovery and Recycling Program;

28          / / /

1 c. Cease any dismantling, crushing, shredding, or any other processing of Covered  
2 Electronic Wastes ("CEWs") or Cathode Ray Tube devices ("CRTs"); and,

3 d. Cease all processing of beverage containers or other recyclable materials under  
4 the California Redemption Value program.

5 <sup>for</sup> (2) <sup>Executive Vice</sup> The President and one <sup>supervising</sup> ~~other~~ <sup>Yard</sup> Tung Tai ~~corporate~~ officer shall complete an annual  
6 refresher course on developments in California hazardous waste and hazardous materials  
7 regulations and laws.

8 B. DEFENDANT 3 – JOHN CHEN

9 • Defendant John Chen (08/13/1972) shall plead nolo contendere (no contest) to the  
10 following six Felony charges:

- 11 (1) Count 1, Penal Code section 115 [offering false instrument to be filed with State];  
12 (2) Count 4, Penal Code section 115 [offering false instrument to be filed with State];  
13 (3) Count 7, Penal Code section 115 [offering false instrument to be filed with State];  
14 (4) Count 9, Penal Code section 72 [present for payment a false claim with State];  
15 (5) Count 10, Penal Code section 72 [present for payment a false claim with State];  
16 (6) Count 11, Penal Code section 72 [present for payment a false claim with State].

17 • The payment of the total fine of \$75,000 imposed upon Tung Tai shall be jointly  
18 and severally imposed upon defendant John Chen.

19 • The payment of the restitution amount of \$50,000 imposed upon Tung Tai shall  
20 be jointly and severally imposed upon defendant John Chen.

21 • At the conclusion of the entry of John Chen's Felony plea, all other charges  
22 against John Chen contained in the Felony Complaint filed on August 19, 2010, shall be  
23 dismissed.

24 • John Chen's sentencing shall be continued to a date set for 24 months from the  
25 time of the entry of John Chen's Felony plea.

26 • On the date of sentencing, John Chen shall be permitted to withdraw his Felony  
27 plea to Counts 1, 4, 7, 10, 11 and 14, provided that John Chen has complied with all of the  
28 Interim Terms, set forth below.

1           •       At a date 12 months after the entry of the Felony plea, and again 30 days before  
2 the date of sentencing, John Chen shall file and serve a status report summarizing his activities  
3 relating to the Interim Terms and stating whether John Chen is in compliance with the Interim  
4 Terms. These status reports shall be signed under penalty of perjury.

5           •       15 days before the date set for sentencing, the People shall file a status report with  
6 the Court. John Chen may file any objection to the People's status report 7 days before the date  
7 set for sentencing.

8           •       Provided that John Chen has complied with the Interim Terms, on the date of  
9 sentencing, and prior to imposition of judgment and sentence, the People shall request that the  
10 remaining charges against John Chen be dismissed in the interest of justice, pursuant to Penal  
11 Code section 1385. On the People's request, provided that the Court agrees that John Chen has  
12 complied with the Interim Terms, the parties anticipate that this Court will dismiss Counts 1, 4,  
13 7, 10, 11 and 14 prior to the imposition of judgment and sentence.

14          •       In the event that John Chen has not complied with the Interim Terms as  
15 determined by the Court, John Chen shall not be permitted to withdraw his Felony pleas and  
16 shall be sentenced on Counts 1, 4, 7, 10, 11 and 14 by the Court.

17          •       Interim Terms

18          (1)     John Chen shall:

19           a.     Commit no intentional violations of Chapter 6.5, Division 20, of the California  
20 Health and Safety Code, and its implementing regulations, governing the control of hazardous  
21 waste, including electronic waste or any related residual;

22           b.     Withdraw as an Approved Recycler, Approved Collector, or other designation  
23 pursuant to the Electronic Waste Recovery and Recycling Program;

24           c.     Cease any dismantling, crushing, shredding, or any other processing of Covered  
25 Electronic Wastes ("CEWs") or Cathode Ray Tube devices ("CRTs"); and,

26           d.     Cease all processing of beverage containers or other recyclable materials under  
27 the California Redemption Value program.

28          / / /

1 (2) Within 180 days of the date of the entry of the Felony pleas, John Chen shall  
2 submit a certification to the People that he has completed an annual refresher course on  
3 developments in California hazardous waste and hazardous materials regulations and laws and  
4 that the developments will be incorporated into any business conducted by John Chen that  
5 involves the management of hazardous waste or hazardous materials. The certification shall be  
6 signed under penalty of perjury.

7 (3) Within 365 days of the date of the entry of the Felony pleas, John Chen shall  
8 perform 100 hours of Community Service, as approved through the Sentencing Alternatives  
9 Program, Inc.

10 (4) Within 365 days of the date of the entry of the Felony pleas, John Chen shall  
11 submit a certification to the People that the requirements of the California hazardous waste and  
12 hazardous materials regulations and laws have been be incorporated into any business conducted  
13 by John Chen that involves the management of hazardous waste or hazardous materials, and that  
14 the program is developed and disseminated to employees and is being applied. The certification  
15 shall be signed under penalty of perjury.

16 C. DEFENDANT 4 – JASON HUANG

17 • Defendant Jason Huang (10/28/1944) shall plead nolo contendere (no contest) to  
18 the following five Felony charges:

- 19 (1) Count 2, Penal Code section 115 [offering false instrument to be filed with State];  
20 (2) Count 5, Penal Code section 115 [offering false instrument to be filed with State];  
21 (3) Count 12, Penal Code section 470(d) [forgery];  
22 (4) Count 13, Penal Code section 470(d) [forgery];  
23 (5) Count 14, Penal Code section 470(d) [forgery].

24 • The payment of the total fine of \$75,000 imposed upon Tung Tai shall be jointly  
25 and severally imposed upon defendant Jason Huang.

26 • The payment of the restitution amount of \$50,000 imposed upon Tung Tai shall  
27 be jointly and severally imposed upon defendant Jason Huang.

28 / / /

1           •       At the conclusion of the entry of Jason Huang's Felony plea, all other charges  
2 against Jason Huang contained in the Felony Complaint filed on August 19, 2010, shall be  
3 dismissed.

4           •       Jason Huang's sentencing shall be continued to a date set for 24 months from the  
5 time of the entry of Jason Huang's Felony plea.

6           •       On the date of sentencing, Jason Huang shall be permitted to withdraw his Felony  
7 plea to Counts 1, 2, 5, 12, 13 and 14, provided that Jason Huang has complied with all of the  
8 Interim Terms, set forth below.

9           •       At a date 12 months after the entry of the Felony plea, and again 30 days before  
10 the date of sentencing, Jason Huang shall file and serve a status report summarizing his activities  
11 relating to the Interim Terms and stating whether Jason Huang is in compliance with the Interim  
12 Terms. These status reports shall be signed under penalty of perjury.

13           •       15 days before the date set for sentencing, the People shall file a status report with  
14 the Court. Jason Huang may file any objection to the People's status report 7 days before the  
15 date set for sentencing.

16           •       Provided that Jason Huang has complied with the Interim Terms, on the date of  
17 sentencing, and prior to imposition of judgment and sentence, the People shall request that the  
18 remaining charges against Jason Huang be dismissed in the interest of justice, pursuant to Penal  
19 Code section 1385. On the People's request, provided that the Court agrees that Jason Huang has  
20 complied with the Interim Terms, the parties anticipate that this Court will dismiss Counts 1, 2,  
21 5, 12, 13 and 14 prior to the imposition of judgment and sentence.

22           •       In the event that Jason Huang has not complied with the Interim Terms as  
23 determined by the Court, Jason Huang shall not be permitted to withdraw his Felony pleas and  
24 shall be sentenced on Counts 1, 2, 5, 12, 13 and 14 by the Court.

25           •       Interim Terms

26           (1)     Jason Huang shall:

27           a.       Refrain from and abstain from any management or on-site handling of hazardous  
28 waste, including electronic waste or any related residual, or with any disposal, transportation,



1 storage or treatment of hazardous waste as governed by Chapter 6.5, Division 20, of the  
2 California Health and Safety Code, and its implementing regulations;

3 b. Withdraw as an Approved Recycler, Approved Collector, or other designation  
4 pursuant to the Electronic Waste Recovery and Recycling Program;

5 c. Cease any dismantling, crushing, shredding, or any other processing of Covered  
6 Electronic Wastes ("CEWs") or Cathode Ray Tube devices ("CRTs"); and,

7 d. Cease all processing of beverage containers or other recyclable materials under  
8 the California Redemption Value program.

9 (2) Within 365 days of the date of the entry of the Felony pleas, <sup>Jason Huang</sup> ~~John Chen~~ shall  
10 perform 100 hours of Community Service, as approved through the Sentencing Alternatives  
11 Program, Inc.

12 (3) During the interim term and prior to the date for Felony sentencing, Jason Huang  
13 may submit a request to the Superior Court seeking a return to a designated and specified form of  
14 employment in the industry involving hazardous waste and hazardous materials regulations and  
15 laws. The People may have the opportunity to respond or file any objection to Jason Huang  
16 returning to employment in the hazardous waste and hazardous material industry.

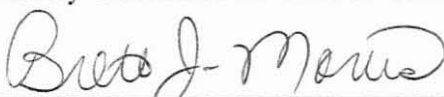
17 D. DEFENDANT 2 – JOSEPH CHEN <sup>Bgm</sup> <sup>SLM</sup>

18 • ~~In light of the Felony pleas to be entered by Defendant in this matter, at the~~  
19 conclusion of the entry of Felony pleas the People will request that the charges against Joseph  
20 Chen (10/20/1940) be dismissed in the interest of justice, pursuant to Penal Code section 1385.

21  
22 For Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA:

23  
24 Dated: July 9, 2012

KAMALA D. HARRIS  
Attorney General of the State of California

25   
26 BRETT J. MORRIS  
27 Deputy Attorney General  
28 Attorneys for Plaintiff  
The People of the State of California



1 For Defendant TUNG TAI GROUP, INC.:

2  
3 Dated: 7/9/12


TUNG TAI GROUP, INC.,  
a California Corporation

7 By: 

8 JOSEPH CHEN  
9 President  
Tung Tai Group, Inc.

10 Approved as to Form:

11  
12  
13 Dated: 7/9/12

  
14 ALLEN RUBY  
15 Skadden, Arps, Slate, Meagher & Flom, LLP  
16 Attorneys for Defendant Tung Tai Group, Inc.

17 For Defendants:

18  
19 Dated: 7/9/12

  
20 JOSEPH CHEN

21  
22 Dated: 7/11/12

  
23 JOHN CHEN

24  
25  
26 Dated: 7-9-12

  
27 JASON HUANG  
28